

I certify that the attached is a true and  
correct copy of HB 527, which  
was filed of record on JAN 23 1991  
and referred to the committee on:

HOUSE OF REPRESENTATIVES

*Betty Murray*

Chief Clerk of the House

FILED JAN 23 1991

By *Ron Lewis*

HB. No. 527

A BILL TO BE ENTITLED

AN ACT

relating to the effects of certain permits granted by the Texas  
Water Commission and to the mitigation of adverse effects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.152, Water Code, is amended to read as  
follows:

Sec. 11.152. EFFECTS OF PERMITS ON FISH AND WILDLIFE  
HABITATS. In its consideration of an application for a permit to  
store, take, or divert water in excess of 5,000 acre feet per year,  
the commission shall assess the effects, if any, of [on] the  
issuance of the permit on fish and wildlife habitats and may  
require the applicant to take reasonable actions to mitigate  
adverse impacts on such habitats [habitat]. In determining whether  
to require an applicant to mitigate adverse impacts on a habitat,  
the commission shall [may] consider any project benefits that  
create a new habitat or enhance a fish or wildlife habitat and  
shall balance the benefits to and the adverse impacts on [any-net  
benefit-to] the habitat resulting from [produced-by] the project.  
In determining whether to require the mitigation, the commission  
also shall consider the public need for the project, any increased  
costs created by the mitigation, and the effects of any increased  
costs on the public welfare. The commission shall offset against  
any mitigation required by the U.S. Fish and Wildlife Service  
pursuant to 33 C.F.R. Sections 320-330 any mitigation authorized by

1 this section.

2       SECTION 2. This Act takes effect January 1, 1992, and  
3 applies only to applications for permits filed with the Texas Water  
4 Commission on or after that date. An application for a permit  
5 filed with the Texas Water Commission before January 1, 1992, is  
6 governed by the law in effect at the time the application was  
7 filed, and that law is continued in effect for that purpose.

8       SECTION 3. The importance of this legislation and the  
9 crowded condition of the calendars in both houses create an  
10 emergency and an imperative public necessity that the  
11 constitutional rule requiring bills to be read on three several  
12 days in each house be suspended, and this rule is hereby suspended.

# HOUSE COMMITTEE REPORT

91 MAY 18 AM 10:37  
FILED BY REPRESENTATIVE

1st Printing

By Ron Lewis

H.B. No. 527

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# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

May 17, 1991  
(date)

Sir:  
We, your COMMITTEE ON NATURAL RESOURCES,  
to whom was referred HB 527 have had the same under consideration and beg to report  
(measure)

back with the recommendation that it

- ( X ) do pass, without amendment.  
( ) do pass, with amendment(s).  
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ( X ) yes ( ) no An author's fiscal statement was requested. ( ) yes ( X ) no

A criminal justice policy impact statement was requested. ( ) yes ( X ) no

An equalized educational funding impact statement was requested. ( ) yes ( X ) no

An actuarial analysis was requested. ( ) yes ( X ) no

A water development policy impact statement was requested. ( ) yes ( X ) no

A federal funds impact statement was requested. ( ) yes ( X ) no

( X ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

This measure ( ) proposes new law. ( X ) amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

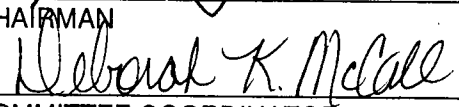
The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Lewis, R., Ch.	X			
Willy, V.C.	X			
Collazo, C.B.O.				X
Bosse	X			
Greenberg	X			
Haggerty	X			
Hilderbran	X			
Puente	X			
Yost	X			

Total

8 aye  
0 nay  
0 present, not voting  
1 absent

  
CHAIRMAN

  
COMMITTEE COORDINATOR

HB 527  
By: R. Lewis

Committee on  
Natural Resources

## BILL ANALYSIS

### BACKGROUND

At present, there is no statutory requirement that the Commission make a judgement on the adverse and beneficial effects of projects in determining mitigation requirements.

### PURPOSE OF THE BILL

This bill would amend Section 11.152, Texas Water Code, to provide that, in its consideration of the effects of granting permits for certain water projects on fish and wildlife habitats and the mitigation requirements to be imposed thereunder, the Texas Water Commission shall take into account any beneficial effects of the project, and give credit for those beneficial effects to offset adverse effects in determining net mitigation requirements.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.152, Water Code, to include that the Water Commission shall consider both benefits and adverse effects of granting permits which affect fish and wildlife habitats. Also provides that public need for the project, increased costs created by mitigation, and increased costs on public welfare to be considered in the determination.

SECTION 2. Effective date: January 1, 1992.

SECTION 3. Emergency clause.

### RULEMAKING AUTHORITY

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

### SUMMARY OF COMMITTEE ACTION

Notice was posted in accordance with House Rules, and HB 527 was heard at a full committee public hearing on April 15, 1991. A resource witness testified on the bill. Testimony was taken for, against and on the bill. A witness was present in favor, but did not testify on the bill. Testimony was taken on the bill. The motion to refer HB 527 to subcommittee carried without objection. On May 17, 1991, HB 527 was called up at a full committee formal meeting. The motion to report HB 527 favorably back to the full House with the recommendation that it be placed on the Local and Consent calendar carried by a vote of 8 ayes, 0 nays, 0 PNV and 1 absent.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**

**March 19, 1991**

**TO: Honorable Ron Lewis, Chair**  
**Committee on Natural Resources**  
**House of Representatives**  
**Austin, Texas**

**IN RE: House Bill No. 527**  
**By: Lewis**

**FROM: Jim Oliver, Director**

In response to your request for a Fiscal Note on House Bill No. 527 (relating to the effects of certain permits granted by the Texas Water Commission and to the mitigation of adverse effects) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

**Source: Texas Water Commission;**  
**LBB Staff: JO, JWH, DF, JG, LC**

H. B. No. 527

By Ron Lewis

A BILL TO BE ENTITLED

AN ACT

relating to the effects of certain permits granted by the Texas Water Commission and to the mitigation of adverse effects.

JAN 23 1991

1. Filed with the Chief Clerk.

FEB 6 1991

2. Read first time and Referred to Committee on  
NATURAL RESOURCES

MAY 17 1991

3. Reported ☒ favorably <sup>(as amended)</sup><sub>(as substituted)</sub> and sent to Printer at 8:30p  
MAY 17 1991

MAY 18 1991

4. Printed and distributed at 10:37am

MAY 20 1991

5. Sent to Committee on Calendars at 9:23am

MAY 23 1991

transferred to Calendars 4:04pm

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_\_\_

13. Engrossed.

14. Returned to Chief Clerk at \_\_\_\_\_

15. Sent to Senate.

\_\_\_\_\_  
Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on \_\_\_\_\_

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by  
(a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)



\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules  
suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments.)  
(as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)  
(Substitute) by a (Non-Record  
Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_

HOUSE OF REPRESENTATIVES

91 MAY 18 AM 10:37